

# SENATE, No. 736

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Co-Sponsored by:**

**Senators Bateman, A.R.Bucco, Pou and Kyrillos**

**SYNOPSIS**

Establishes crimes of dog fighting and leader of a dog fighting network;  
amends RICO to add leader of a dog fighting network.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/8/2015)

1 AN ACT concerning animal fighting, supplementing chapter 33 of  
2 Title 2C and amending N.J.S.2C:41-1 and R.S.4:22-24

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) a. A person is guilty of dog fighting if that  
8 person knowingly:

9 (1) keeps, uses, is connected with or interested in the  
10 management of, or receives money for the admission of a person to,  
11 a place kept or used for the purpose of fighting or baiting a dog;

12 (2) owns, possesses, keeps, trains, promotes, purchases, breeds  
13 or sells a dog for the purpose of fighting or baiting that dog;

14 (3) for amusement or gain, causes, allows, or permits the  
15 fighting or baiting of a dog;

16 (4) permits or suffers a place owned or controlled by that person  
17 to be used for the purpose of fighting or baiting a dog;

18 (5) is present and witnesses, pays admission to, encourages or  
19 assists in the fighting or baiting of a dog; or

20 (6) gambles on the outcome of a fight involving a dog.

21 Dog fighting is a crime of the third degree.

22 b. In addition to any other penalty imposed, the court shall  
23 order the seizure and forfeiture of any animals used for fighting or  
24 baiting, and may upon request of the prosecutor or on its own  
25 motion, order any person convicted of a violation under this section  
26 to forfeit possession of: (1) any other animals in the person's  
27 custody or possession; and (2) any other property involved in or  
28 related to a violation of this act. The court may prohibit any such  
29 person from having future possession or custody of any animal for  
30 any period of time the court deems reasonable, including a  
31 permanent prohibition.

32 c. For the purposes of this section "bait" means to attack with  
33 violence, to provoke, or to harass a dog with one or more animals  
34 for the purpose of training the dog for, or to cause a dog to engage  
35 in, a fight with or among other dogs.

36

37 2. (New section) a. A person is a leader of a dog fighting  
38 network if he conspires with others in a scheme or course of  
39 conduct to unlawfully engage in dog fighting, as defined in section  
40 1 of P.L. , c. (C. ) (pending before the Legislature this bill),  
41 as an organizer, supervisor, financier or manager of at least one  
42 other person. Leader of a dog fighting network is a crime of the  
43 second degree.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Financier" means a person who, with the intent to derive a  
2 profit, provides money or credit or other thing of value in order to  
3 finance the operations of dog fighting.

4 b. In addition to any other penalty imposed, the court shall  
5 order the seizure and forfeiture of any dogs used for fighting or  
6 baiting, and may upon request of the prosecutor or on its own  
7 motion, order any person convicted of a violation under this section  
8 to forfeit possession of: (1) any other animals in the person's  
9 custody or possession; and (2) any other property involved in or  
10 related to a violation of this act. The court may prohibit any such  
11 person from having future possession or custody of any animal for  
12 any period of time the court deems reasonable, including a  
13 permanent prohibition.

14 c. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction  
15 of leader of a dog fighting network shall not merge with the  
16 conviction for any offense, nor shall such other conviction merge  
17 with a conviction under this section, which is the object of the  
18 conspiracy. Nothing contained in this section shall prohibit the  
19 court from imposing an extended term pursuant to N.J.S.2C:43-7;  
20 nor shall this section be construed in any way to preclude or limit  
21 the prosecution or conviction of any person for conspiracy under  
22 N.J.S.2C:5-2, or any prosecution or conviction under N.J.S.2C:41-1  
23 et seq. (racketeering activities) or subsection g. of N.J.S.2C:5-2  
24 (leader of organized crime) or any prosecution or conviction for any  
25 such offense.

26 d. It shall not be necessary in any prosecution under this  
27 section for the State to prove that any intended profit was actually  
28 realized. The trier of fact may infer that a particular scheme or  
29 course of conduct was undertaken for profit from all of the  
30 attendant circumstances, including but not limited to the number of  
31 persons involved in the scheme or course of conduct, the actor's net  
32 worth and his expenditures in relation to his legitimate sources of  
33 income, or the amount of cash or currency involved.

34 e. It shall not be a defense to a prosecution under this section  
35 that the dog intended to be used for fighting was brought into or  
36 transported in this State solely for ultimate distribution or sale in  
37 another jurisdiction.

38 f. It shall not be a defense that the defendant was subject to the  
39 supervision or management of another, nor that another person or  
40 persons were also leaders of a dog fighting network.

41

42 3. N.J.S.2C:41-1 is amended to read as follows:

43 2C:41-1. For purposes of this section and N.J.S.2C:41-2 through  
44 N.J.S.2C:41-6:

45 a. "Racketeering activity" means (1) any of the following  
46 crimes which are crimes under the laws of New Jersey or are  
47 equivalent crimes under the laws of any other jurisdiction:

- 1 (a) murder
- 2 (b) kidnapping
- 3 (c) gambling
- 4 (d) promoting prostitution
- 5 (e) obscenity
- 6 (f) robbery
- 7 (g) bribery
- 8 (h) extortion
- 9 (i) criminal usury
- 10 (j) violations of Title 33 of the Revised Statutes
- 11 (k) violations of Title 54A of the New Jersey Statutes and Title
- 12 54 of the Revised Statutes
- 13 (l) arson
- 14 (m) burglary
- 15 (n) theft and all crimes defined in chapter 20 of Title 2C of the
- 16 New Jersey Statutes
- 17 (o) forgery and fraudulent practices and all crimes defined in
- 18 chapter 21 of Title 2C of the New Jersey Statutes
- 19 (p) fraud in the offering, sale or purchase of securities
- 20 (q) alteration of motor vehicle identification numbers
- 21 (r) unlawful manufacture, purchase, use or transfer of firearms
- 22 (s) unlawful possession or use of destructive devices or
- 23 explosives
- 24 (t) violation of sections 112 through 116 inclusive of the
- 25 "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-
- 26 116)
- 27 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
- 28 and all crimes involving illegal distribution of a controlled
- 29 dangerous substance or controlled substance analog, except
- 30 possession of less than one ounce of marijuana
- 31 (v) violation of subsection b. of N.J.S.2C:24-4 except for
- 32 subparagraph (b) of paragraph (5) of subsection b.
- 33 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16),
- 34 leader of firearms trafficking network
- 35 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
- 36 weapons training for illegal activities
- 37 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2),
- 38 terrorism
- 39 (z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human
- 40 trafficking
- 41 (aa) violation of N.J.S.2C:12-1 requiring purposeful or knowing
- 42 conduct
- 43 (bb) violation of N.J.S.2C:12-3, terroristic threats **[.]**
- 44 (cc) violation of section 2 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending
- 45 before the Legislature as this bill), leader of dog fighting network.
- 46 (2) any conduct defined as "racketeering activity" under Title
- 47 18, U.S.C.s.1961(1)(A), (B) and (D).

- 1       b. "Person" includes any individual or entity or enterprise as  
2 defined herein holding or capable of holding a legal or beneficial  
3 interest in property.
- 4       c. "Enterprise" includes any individual, sole proprietorship,  
5 partnership, corporation, business or charitable trust, association, or  
6 other legal entity, any union or group of individuals associated in  
7 fact although not a legal entity, and it includes illicit as well as licit  
8 enterprises and governmental as well as other entities.
- 9       d. "Pattern of racketeering activity" requires:
- 10       (1) Engaging in at least two incidents of racketeering conduct  
11 one of which shall have occurred after the effective date of this act  
12 and the last of which shall have occurred within 10 years (excluding  
13 any period of imprisonment) after a prior incident of racketeering  
14 activity; and
- 15       (2) A showing that the incidents of racketeering activity  
16 embrace criminal conduct that has either the same or similar  
17 purposes, results, participants or victims or methods of commission  
18 or are otherwise interrelated by distinguishing characteristics and  
19 are not isolated incidents.
- 20       e. "Unlawful debt" means a debt:
- 21       (1) Which was incurred or contracted in gambling activity  
22 which was in violation of the law of the United States, a state or  
23 political subdivision thereof; or
- 24       (2) Which is unenforceable under state or federal law in whole  
25 or in part as to principal or interest because of the laws relating to  
26 usury.
- 27       f. "Documentary material" includes any book, paper,  
28 document, writing, drawing, graph, chart, photograph, phonorecord,  
29 magnetic or recording or video tape, computer printout, other data  
30 compilation from which information can be obtained or from which  
31 information can be translated into useable form or other tangible  
32 item.
- 33       g. "Attorney General" includes the Attorney General of New  
34 Jersey, his assistants and deputies. The term shall also include a  
35 county prosecutor or his designated assistant prosecutor if a county  
36 prosecutor is expressly authorized in writing by the Attorney  
37 General to carry out the powers conferred on the Attorney General  
38 by this chapter.
- 39       h. "Trade or commerce" shall include all economic activity  
40 involving or relating to any commodity or service.  
41 (cf: P.L.2007, c.341, s.4)  
42
- 43       4. R.S.4:22-24 is amended to read as follows:  
44       4:22-24. A person who shall:
- 45       a. Keep, use, be connected with or interested in the  
46 management of, or receive money for the admission of a person to,

- 1 a place kept or used for the purpose of fighting or baiting a living  
2 animal or creature;
- 3 b. Be present and witness, pay admission to, encourage or  
4 assist therein;
- 5 c. Permit or suffer a place owned or controlled by him to be so  
6 used;
- 7 d. For amusement or gain, cause, allow, or permit the fighting  
8 or baiting of a living animal or creature;
- 9 e. Own, possess, keep, train, promote, purchase, or knowingly  
10 sell a living animal or creature for the purpose of fighting or baiting  
11 that animal or creature; or
- 12 f. Gamble on the outcome of a fight involving a living animal  
13 or creature--
- 14 Shall be guilty of a crime of the third degree.
- 15 For the purposes of this section "bait" means to attack with  
16 violence, to provoke, or to harass an animal with one or more  
17 animals for the purpose of training the animal for, or to cause an  
18 animal to engage in, a fight with or among other animals.  
19 (cf: P.L.1989, c.35, s.1)

20

- 21 5. This act shall take effect immediately.

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23

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## STATEMENT

25

26 This bill would establish two new crimes: dog fighting; and  
27 leader of a dog fighting network. The latter crime would also be  
28 added to the list of offenses considered "racketeering activity"  
29 under New Jersey's anti-racketeering law ("RICO"), N.J.S.2C:41-1  
30 et seq.

31 A person would be guilty of dog fighting if the person  
32 knowingly: (1) keeps, uses, or is connected with or interested in the  
33 management of, or receives money for the admission of a person to,  
34 a place kept or used for the purpose of fighting or baiting a dog; (2)  
35 owns, possesses, keeps, trains, promotes, purchases, breeds or sells  
36 a dog for the purpose of fighting or baiting that dog; (3) for  
37 amusement or gain, causes, allows, or permits the fighting or  
38 baiting of a dog; (4) permits or suffers a place owned or controlled  
39 by that person to be used for the purpose of fighting or baiting a  
40 dog; (5) is present and witnesses, pays admission to, encourages or  
41 assists in the fighting or baiting of a dog; or (6) gambles on the  
42 outcome of a fight involving a dog. Under the bill, the term  
43 "baiting" in reference to the above categories would mean "to  
44 attack with violence, to provoke, or to harass a dog with one or  
45 more animals" for purposes of training or causing a dog to engage  
46 in dog fighting.

1 Dog fighting would be a crime of the third degree. A crime of the  
2 third degree is ordinarily punishable by a term of imprisonment of  
3 three to five years, a fine of up to \$15,000, or both.

4 Additionally, a person would be guilty of the crime of leader of a  
5 dog fighting network if the person conspires with others in a  
6 scheme or course of conduct to unlawfully engage in dog fighting  
7 as an organizer, supervisor, financier or manager of at least one  
8 other person. This crime would be a crime of the second degree. A  
9 crime of the second degree is ordinarily punishable by a term of  
10 imprisonment of five to 10 years, a fine of up to \$150,000, or both.  
11 This crime would also be added to the list of offenses considered  
12 “racketeering activity” under RICO, N.J.S.2C:41-1 et seq., which  
13 could trigger additional criminal penalties if a person is found to  
14 engage in a pattern of racketeering activity. See N.J.S.2C:41-3.

15 Also concerning prosecutions for the crime of leader of a dog  
16 fighting network, the bill includes a non-merger provision, meaning  
17 that a conviction for such crime would not merge with the  
18 conviction for any other offense when the underlying conduct being  
19 prosecuted establishes more than one offense.

20 Further, it would not be a defense to the crime of leader of a dog  
21 fighting network that a dog intended to be used for fighting was  
22 brought into or transported in this State solely for ultimate  
23 distribution or sale in another jurisdiction. It also would not be a  
24 defense that the defendant was subject to the supervision or  
25 management of another.

26 With respect to both criminal dog fighting and leader of a dog  
27 fighting network, the court would, in addition to any other penalty it  
28 imposed, order the seizure and forfeiture of any dogs used for  
29 fighting or baiting, and may upon request of the prosecutor or on its  
30 own motion, order any convicted person to forfeit possession of: (1)  
31 any other animals in the person’s custody or possession; and (2) any  
32 other property involved in or related to the criminal act.  
33 Additionally, the court could prohibit any such person from having  
34 future possession or custody of any animal for any period of time  
35 the court deems reasonable, including a permanent prohibition.

36 Finally, with respect to animal fighting generally, the bill would  
37 amend R.S.4:22-24, a statute concerning criminal animal fighting,  
38 to include a definition of “baiting” similar to that set forth above for  
39 the new crime of dog fighting. Thus, under the bill, the term  
40 “baiting” in reference to persons engaged in criminal animal  
41 fighting would mean “to attack with violence, to provoke, or to  
42 harass an animal with one or more animals” for purposes of training  
43 or causing the animal to engage in animal fighting. The existing  
44 crime of animal fighting is a crime of the third degree, ordinarily  
45 punishable by a term of imprisonment of three to five years, a fine  
46 of up to \$15,000, or both.